

REMARKS/ARGUMENTS

Applicant requests an initialed PTO-1449 confirming consideration of references cited in the IDS filed on November 20, 2002.

The Examiner has required Applicant to elect a single invention for prosecution on the merits. The Examiner has not identified how group I and II are distinct from each other none the less. Applicant hereby elects to proceed with the invention I, claims 1-10 without traverse. Claims 21-34 have been withdrawn as the result of the restriction. Claims 11-20 have been canceled. Claims 35-44 have been added. Claims 35-44 depend directly or indirectly on claim 1 and thus belong to the elected invention I. Currently, claims 1-10 and 35-44 remain in this application for prosecution on the merits. In view of the restriction requirement, Applicant retains the right to present claims 21-34 in one or more divisional applications.

The Examiner has required Applicant to elect a single species for prosecution on the merits. Applicant respectfully submits that the election requirement is improper. The Examiner states that the inventions I-IV as identified in the restriction requirement are distinct from each other. MPEP 806 states that where inventions are related as disclosed but are distinct as claimed, restriction may be proper. MPEP 806.04 (e) states that claims are definitions of inventions. Claims are never species. It is hoped that the Examiner will appreciate the inapplicability of the position of a species election among the identified distinct claims. Therefore, election has been made above according to the restriction requirement.

In light of the foregoing, it is respectfully submitted that the present application is in a condition for allowance and notice to that effect is hereby requested. If it is determined that the application is not in a condition for allowance, the Examiner is invited to initiate a telephone interview with the undersigned to expedite prosecution of the present application.

Appl. No. 10/008,280
Amdt. Dated January 17, 2006
Reply to Office action of September 14, 2005

If there are any additional fees resulting from this communication, please charge same
to our Deposit Account No. 16-0820, our Order No. 34145.

Respectfully submitted,

PEARNE & GORDON LLP

By:



Tomoko Ishihara, Reg. No. 56808

1801 East 9th Street
Suite 1200
Cleveland, Ohio 44114-3108
(216) 579-1700

Date: January 17 2006